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FILED
JUN 1 1966
JOHN F. DAVIS, CLERK

In the Supreme Court of the United States

OCTOBER TERM, 1966

No. ~~[illegible]~~ 164

AYAKO HONDA, et al.,
Petitioners,

vs.

NICHOLAS DEB. KATZENBACH,
Attorney General of the United States.

MASAE KONDO, et al.,
Petitioners,

NICHOLAS DEB. KATZENBACH,
Attorney General of the United States.

On Petition for Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

Memorandum of the State of California as Amicus Curiae

THOMAS C. LYNCH
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Because it has been the policy of the State of California to redress as far as possible the unfortunate injuries suffered by Japanese-American citizens during World War II, and because we are convinced that a sound legal and equitable basis lies within the power of this Court to continue that policy in the case at bar, the Attorney General

of the State of California deems it appropriate to present this memorandum *amicus curiae* in support of the position of the petitioners.

We understand that the persons represented by these petitioners are of Japanese ancestry, and that most, if not all, are citizens of the United States by birth or naturalization. Moreover, a majority of them are residents of California.

During the years 1946 to the present, the California Legislature and Supreme Court have taken steps to ameliorate grievances suffered during the war years by Japanese-American citizens of California. While this Court's decision in *Oyama v. California*, 332 U.S. 633 (1948), did not declare completely unconstitutional California's Alien Land Law, the California Supreme Court thereafter held the law invalid as violating the Fourteenth Amendment to the United States Constitution. *Sei Fujii v. California*, 38 Cal.2d 718, 242 P.2d 617 (1952).

Prior to that decision, a predecessor California Attorney General had compromised, settled or dismissed escheat cases which had been filed under the Alien Land Law. Pursuant to the decision in *Sei Fujii*, the California Legislature made provision for the return with interest of all monies which had been paid to the State by reason of such settlements, as well as those which had been realized by the State from property escheated under the Alien Land Act. Cal. Stat. ch. 1816, p. 3600 (1953).

The Congress of the United States has expressed the same basic policy. See, e.g., amendment to the Immigration and Naturalization Act, 66 Stat. 239, 8 U.S.C.A. § 1422 (1952) (removed racial barrier to citizenship); American-Japanese Evacuation Claims Act, 62 Stat. 1231, 50 U.S.C.A. App. §§ 1981-87 (1948) (authorized compensation for losses incurred because of evacuation).

California's concern, however, does not end with these petitioners. They represent subsequent generations of Japanese-Americans as well. The injustice inherent in the decision of the lower court will leave its bitter imprint on these new generations unless this Court acts.

We are concerned as well with the petitioners who are not California citizens. California, though a sovereign state, is proclaimed by its Constitution an inseparable part of the American union.[1] Over one hundred years of history reinforce that proclamation. California's people are firmly welded into the single economic and social unit which constitutes our great nation. An injustice to any American citizen is of great concern to the people of California.

We are convinced that the ruling of the lower court is erroneous and represents a regression to an unfortunate era, an era we hoped had ended several years ago.

The State of California respectfully urges this Court to grant the petition for writ of certiorari.

Dated:

Respectfully submitted,

THOMAS C. LYNCH
Attorney General of California

CHARLES A. O'BRIEN
Chief Deputy Attorney General

CHARLES W. RUMPH
Deputy Attorney General

Attorneys for
Amicus Curiae

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1. Cal. Const. Art. I, § 3.